

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

In the Matter of:

RALPH E. BUSTOS, Former
Officer and
Institution-Affiliated
Party of:

First Federal Savings and
Loan Association, Las Vegas,
New Mexico

OTS ORDER No. DAL-94-01

DATED: March 17, 1994

ORDER OF PROHIBITION AND
ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, the Office of Thrift Supervision ("OTS") has conducted an investigation pursuant to OTS Resolution No. DAL-91-116, dated August 21, 1991, concerning First Federal Savings and Loan Association, Las Vegas, New Mexico ("FIRST FEDERAL") and, as a result of that investigation has concluded that:

(a) From and after January 20, 1987, Ralph E. Bustos ("BUSTOS"), a director of FIRST FEDERAL, knew that the OTS considered Michael L. Gregory, James P. Sappington, Jr., and their related business interests to be "one borrower" as defined by the loans-to-one borrower regulation (then set forth at 12 C.F.R. § 563.9-3(a)(1)). BUSTOS did not object to the Institution's continued lending to these borrowers, and did not analyze the applicable regulation and its applicability to the Institution's continued lending to these borrowers; nor did BUSTOS seek

independent legal advice in order: (i) to correct existing regulatory violations, and (ii) to prevent the Institution from making further loans in violation of applicable regulations;

(b) From and after January 20, 1987, BUSTOS approved and/or ratified at least sixteen (16) loans to Michael L. Gregory, James P. Sappington, Jr. and their related business interests, resulting in a total principal amount outstanding to these borrowers on May 28, 1989 of \$3,489,237.81, an amount that exceeded the legal limit by \$1,388,248.81;

(c) FIRST FEDERAL has suffered or probably will suffer significant loss on the loans described above; and

WHEREAS, BUSTOS has executed a STIPULATION AND CONSENT TO ISSUANCE OF AN ORDER OF PROHIBITION AND ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF ("Stipulation"), which is incorporated herein by reference and is accepted and approved by the OTS, acting by and through its Midwest Regional Director ("Regional Director"); and

WHEREAS, without admitting or denying the statements, conclusions, and opinions of the OTS contained herein, BUSTOS has consented and agreed in the Stipulation to the issuance of this ORDER OF PROHIBITION AND ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF ("Orders"); and

WHEREAS, the Director of the OTS has delegated to the Regional Directors of the OTS the authority to issue orders of prohibition and orders to cease and desist where the respondent has consented to the issuance of the orders;

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AND ORDER TO CEASE AND DESIST FOR
AFFIRMATIVE RELIEF

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NOW THEREFORE, THE OTS ORDERS AS FOLLOWS:

ORDER OF PROHIBITION

1. RALPH BUSTOS is prohibited from further participation, in any manner, in the conduct of the affairs of FIRST FEDERAL or any of its subsidiaries.

2. Without the prior written approval of the OTS and, if appropriate, another federal financial institutions regulatory agency, RALPH BUSTOS may not hold any office in, or participate in any manner in the conduct of the affairs of any institution(s) or other entity as set forth in Section 8(e)(7)(A) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.A. § 1818(e)(7)(A) (West 1989 and Supp. 1992). Pursuant to Section 8(e)(6) of the FDIA, 12 U.S.C.A. § 1818(e)(6), conduct prohibited by this Order includes, inter alia, the solicitation, the transfer or the exercise of any voting rights with respect to any securities issued by any insured depository institution. The foregoing restrictions shall not apply to RALPH BUSTOS' current position of employment with Norwest Mortgage Company in Las Vegas, New Mexico ("Norwest"), as an employee who assembles applications for one-to-four family residential loans, with the title of account executive; provided, however, that in the performance of his duties at Norwest, RALPH BUSTOS shall at no time seek, accept, or exercise any authority to underwrite or approve loans, or disburse any funds on loans, made by or on behalf of Norwest.

**ORDER TO CEASE AND DESIST
FOR AFFIRMATIVE RELIEF**

3. From and after the date of issuance of this Order, BUSTOS shall be individually obligated to make restitution to the Resolution Trust Corporation ("RTC") or its successor, as receiver for FIRST FEDERAL, in the amount of \$23,500 without interest.

4. In satisfaction of the obligation specified above, BUSTOS shall make payments to the OTS or its successor in accordance with the following schedule:

<u>Amount</u>	<u>Date Payment Due</u>
\$3,917	Date of Execution
\$3,917	March 31, 1994
\$3,917	June 30, 1994
\$3,917	September 30, 1994
\$3,916	December 31, 1994
\$3,916	March 31, 1995

The full remaining balance of the obligation specified in Paragraph 3 of this Order shall become immediately due and payable upon BUSTOS' failure to make any payment specified above within twenty (20) days after the date required by Paragraph 4 of this Order.

5. BUSTOS' obligation to make restitution pursuant to this Order is his sole and separate obligation and will not be reduced by payments made by or on behalf of BUSTOS to an entity other than the OTS or its successor. Further, BUSTOS' obligation hereunder will not be reduced by or subject to an offset as a result of any payment to the OTS or its successor made by or on behalf of any other person or entity pursuant to such person's or entity's

separate obligation(s) to the OTS or its successor.

6. All payments that are required by this Order shall be made by certified or cashier's check payable to the Resolution Trust Corporation as Receiver for FIRST FEDERAL, and delivered to:

Midwest Regional Director
Office of Thrift Supervision
122 West John Carpenter Freeway
P. O. Box 619027
Irving, Texas 75039

GENERAL PROVISIONS

7. All words or terms used in these Orders, for which meanings are not specified or otherwise provided for by the provisions of these Orders, shall have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, the Home Owners' Loan Act, FDIA and FIRREA.

8. These Orders shall become effective on the date of issuance by the Midwest Regional Director of the OTS, and shall remain in effect until modified by agreement between the OTS or its successor and BUSTOS, or terminated by the OTS or its successor.

OFFICE OF THRIFT SUPERVISION

BY: *F. Casteel*
Frederick R. Casteel
Midwest Regional Director

Date: 3-17-94

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

In the Matter of:

RALPH E. BUSTOS, Former
Officer and
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Party of:

First Federal Savings and
Loan Association, Las Vegas,
New Mexico

RE: OTS ORDER NO. DAL-94-01

DATED: March 17, 1994

STIPULATION AND CONSENT TO ISSUANCE OF AN
ORDER OF PROHIBITION AND ORDER TO CEASE
AND DESIST FOR AFFIRMATIVE RELIEF

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Midwest Regional Office ("Regional Director"), and Ralph E. Bustos ("BUSTOS"), former officer and institution-affiliated party of First Federal Savings and Loan Association, Las Vegas, New Mexico ("FIRST FEDERAL" or the "INSTITUTION"), hereby stipulate and agree as follows:

1. Consideration. The OTS, based on information reported to it, is of the opinion that grounds exist to initiate administrative proceedings against BUSTOS pursuant to Sections 8(b) and (e) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), 12 U.S.C.A. §§ 1818(b) and (e) (West 1989 and Supp. IV 1992). BUSTOS desires to cooperate with the OTS and to

avoid the time and expense of such administrative litigation. Without admitting or denying the statements, conclusions and opinions of the OTS, except those contained in Paragraph 2 below which are admitted, BUSTOS hereby stipulates and agrees to the terms of this STIPULATION AND CONSENT ("Stipulation") and to the issuance of the attached ORDER OF PROHIBITION AND ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF ("Orders"), in consideration of the agreement of the OTS to forbear from initiating any other civil or administrative proceeding against BUSTOS arising out of BUSTOS'S actions, known or discovered by the OTS relating to First Federal and its subsidiaries. This STIPULATION AND CONSENT TO ISSUANCE OF AN ORDER OF PROHIBITION AND ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF ("Consent") and the Orders do not constitute admissions by BUSTOS that his actions, as described herein, meet the definitions contained in Section 523(a)(11) of the U.S. Bankruptcy Code, 11 U.S.C. § 523(a)(11); provided however, that nothing herein is intended to or shall preclude the OTS from making such claim in any subsequent bankruptcy proceeding in which BUSTOS contends that his obligation to pay any restitution pursuant to the Consent and Orders is subject to discharge.

The OTS, based on available evidence and testimony, has determined that it is appropriate and in the best interest of the public to execute this Stipulation and the attached Orders.

This Stipulation and the Orders do not compromise, settle, dismiss, resolve, or in any way affect any civil actions, charges against, or liability of BUSTOS that may be or have been brought by

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any governmental entity other than the OTS.

2. Jurisdiction.

(a) FIRST FEDERAL was a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C.A. § 1813(b) (West 1989 & Supp. IV 1992), and Section 2(4) of the Home Owners' Loan Act ("HOLA"), 12 U.S.C.A. § 1462(4) (West Supp. IV 1992). Accordingly, it was an "Insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C.A. § 1813(c), as amended.

(b) Until August 9, 1989, the Federal Home Loan Bank Board ("FHLBB") was the regulatory agency with jurisdiction over FIRST FEDERAL and persons participating in the conduct of the affairs thereof, including BUSTOS, pursuant to Section 5 of the HOLA, 12 U.S.C.A. § 1464.

(c) As of August 9, 1989, pursuant to Section 3(q) of the FDIA, as amended by Section 204 of FIRREA, 12 U.S.C.A. § 1813(q), the OTS succeeded to the interests of the FHLBB with respect to the supervision and regulation of all savings associations.

(d) At all times relevant hereto, BUSTOS was an officer and person participating in the conduct of the affairs of FIRST FEDERAL and an institution-affiliated party of FIRST FEDERAL, as defined at 12 U.S.C.A. § 1813(u), having served in such capacities within the six (6) years prior to the date of this Stipulation.

(e) Pursuant to Section 3 of the FDIA, as amended, the

OTS is the "appropriate Federal banking agency" to maintain prohibition and cease and desist for affirmative relief proceedings against institution-affiliated parties of FIRST FEDERAL.

Therefore, BUSTOS is subject to the authority of the OTS to initiate and maintain such proceedings against him, pursuant to Sections 8(b) and (e) of the FDIA, 12 U.S.C.A. §§ 1818(b) and (e).

3. Consent. BUSTOS consents to the issuance by the OTS of the Orders, a copy of which is attached hereto. BUSTOS further agrees to comply with the terms of the Orders upon issuance and stipulates that the Orders comply with all the requirements of law.

4. Finality. The Orders are issued under Sections 8(b) and (e) of the FDIA, 12 U.S.C.A. §§ 1818(b) and (e). Upon issuance, they shall be final orders, effective and fully enforceable by the OTS or its successor under the provisions of Section 8(i) of the FDIA, 12 U.S.C.A. § 1818(i), and subject to the provisions of Section 8(j) of the FDIA, 12 U.S.C.A. § 1818(j).

5. Waivers.

(a) BUSTOS waives his right to the administrative hearing provided by Sections 8(b) and (e) of the FDIA, 12 U.S.C.A. §§ 1818(b) and (e), and further waives any right to seek judicial review of the Orders, including any such right provided by Section 8(h) of the FDIA, 12 U.S.C.A. § 1818(h), or otherwise to challenge the validity of the Orders.

(b) BUSTOS waives any claim for attorney's fees or expenses under the Equal Access to Justice Act, 5 U.S.C.A. § 504.

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WHEREFORE, in consideration of the foregoing, the OTS, by and through its Midwest Regional Director, and BUSTOS execute this Stipulation.

OFFICE OF THRIFT SUPERVISION

By: *F. Casteel*
Frederick R. Casteel
Midwest Regional Director

Date: 2-17-94

Ralph E. Bustos
Ralph E. Bustos

Date: 2/10/94

* * * * *

ACKNOWLEDGMENT:

State of New Mexico)
County of San Miguel)

On this 10th day of February, 1994, before me the undersigned notary public, personally appeared Ralph E. Bustos and acknowledged his execution of the foregoing STIPULATION TO ISSUANCE OF AN ORDER OF PROHIBITION AND ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF.

Bertha A. Coca
Notary Public

My Commission expires:

1-13-98



OFFICIAL SEAL
BERTHA A. COCA
NOTARY PUBLIC - STATE OF NEW MEXICO
Notary Bond Filed With Secretary of State
My Commission Expires 1-13-98

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